

James H. Goetz
J. Devlan Geddes
GOETZ, GALLIK & BALDWIN, P.C.
35 North Grand
P.O. Box 6580
Bozeman, MT 59771-6580
Ph: (406) 587-0618
Fax: (406) 587-5144
E-mail: jim@goetzlawfirm.com
devlan@goetzlawfirm.com

and

Bonnie Steingart
John W. Brewer
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON, LLP
One New York Plaza
New York, NY 10004
Ph: (212) 859-8000
Fax: (212) 859-4000
E-mail: BrewerJo@ffhsj.com

ATTORNEYS FOR PLAINTIFF, Magten
Asset Management Corporation

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JUN 15 2004

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DISTRICT OF MONTANA
BILLINGS, MONTANA

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA
BUTTE DIVISION

05 - 499

MAGTEN ASSET MANAGEMENT
CORPORATION,

Plaintiff,

vs.

MIKE J. HANSON, JACK D. HAFHEY, ERNIE J.
KINDT and ELLEN M. SENECHAL,

Defendants.

Cause No. CV-04-26-BU-RFC

WAIVER OF SERVICE OF
SUMMONS

TO: KIMBERLY A. BEATTY, of Browning, Kaleczyc, Berry & Hoven, P.C., 139
North Last Chance Gulch, Helena, MT 59601, in her capacity as attorney for
Defendants, MIKE J. HANSON, JACK D. HAFHEY, ERNIE J. KINDT and
ELLEN M. SENECHAL.

I, Kimberly A. Betty, attorney for Defendants in this action, acknowledge receipt of your
request that I waive service of summons in the action.

1 I have also received a copy of the *Complaint and Demand for Jury Trial* and this instrument,
2 and a means by which I can return the signed waiver to you without cost to me.

3 I agree to save the cost of service of summonses and additional copies of the complaint in
4 this lawsuit by not requiring that the Defendants be served with judicial process in the manner
5 provided by Rule 4.

6 I will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the
7 court on behalf of the Defendants, except for objections based on a defect in the summons or in the
8 service of the summons.

9 I understand that a judgment may be entered against the Defendants if an answer or motion
10 under Rule 12 is not served upon you within 60 days after May 11, 2004 (the date of the *Notice of*
11 *Lawsuit and Request for Waiver of Service of Summons*).

12 DATED this 8th day of June, 2004.

13
14 
15 Kimberly A. Beatty, Attorney for Defendants

16 **DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS**

17 Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving
18 unnecessary costs of service of the summons and complaint. A defendant located in the United
19 States who, after being notified of an action and asked by a plaintiff located in the United States to
20 waive service of summons, fails to do so will be required to bear the cost of such service unless good
21 cause be shown for failure to sign and return the waiver.

22 It is not good cause for a failure to waive service that a party believes that the complaint is
23 unfounded, or that the action has been brought in an improper place or in a court that lacks
24 jurisdiction over the subject matter of the action or over its person or property. A party who waives
25 service of the summons retains all defenses and objections (except any relating to the summons or
26 to the service of the summons), and may later object to the jurisdiction of the court or to the place
27 where the action has been brought.